HONOURABLE MRS JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT APPEAL No:1086 OF 2007

Dated: 28.12.2007

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Between:

A. Srinivasa Rao

..**Petitioner**

And

1. The District Level Committee for
   Sand Auctions, Krishna, rep., by
   its Member Convener-cum-Assistant
   Director of Mines & Geology, Vijayawada
   And others.

..Respondents

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT APPEAL No:1086 OF 2007

JUDGMENT: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ appeal is preferred by the appellant aggrieved by an order, dated 7.12.2007 passed by the learned Single Judge in W.P.No.16169 of 2007.

The appellant herein is the petitioner in the writ petition. He filed the writ petition seeking to declare resolution No.5, dated 11.6.2007 passed by the 1st respondent granting extension of 70 days period in favour of the 2nd respondent in respect of Valluripalem Reach, Krishna District, as arbitrary and illegal and consequently, to direct the 1st respondent to conduct public auction in respect of Vallurupalem Sand Reach, Thotlavallur Mandal, Krishna District.

On the representation made by the learned Government Pleader for Industries that the period lapsed under the new rules and the power of extension is not there and hence, no further orders need be passed, the learned Single Judge dictated the order closing the writ petition. But however, the learned Counsel for the 2nd respondent brought to the notice of the learned Single Judge that there is a direction made by the Court and despite the same, operation had not been undertaken and hence, the question of lapse would not arise and the matter has to be adjudicated on merits.

Having regard to the facts and circumstances of the case, on 7.12.2007, the learned Single Judge recalled the order already dictated and posted the writ petition for final hearing after three weeks. Having aggrieved by the same, the present appeal has been preferred.

The learned Counsel appearing for the appellant contends that when there is a specific case of the Government that the power of extension is not there under the Rules, the learned single Judge ought not to have recalled the order dated 6.12.2007.

We have perused the entire material available on record.

In the facts and circumstances of the case and in view of the fact

that the issue involved in the writ petition, has to be adjudicated on its own merits, the opinion expressed, if any, on the merits of the case at this stage of the proceedings, would touch the very merits of the case. In this view of the matter, without expressing any opinion on the merits of the case, We feel it appropriate to post the writ petition for final hearing on 4th February, 2008. Till such time, there shall be interim suspension of the order impugned in the writ petition.

With the above observation, the writ appeal is disposed of.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th December, 2007
Nn/gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT APPEAL No:1086 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28.12.2007

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